

# Notice of Allowability

Application No.

10/561,328

Examiner

Karen Cheng

Applicant(s)

BORTHWICK ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to application filed 12/19/05.
2. ☒ The allowed claim(s) is/are 1-7 and 9 now renumbered 1-8.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 12/19/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20070123.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### **DETAILED ACTION**

Claims 1-12 are currently pending in the instant application. Claims 8 and 10-12 have been cancelled by applicant. Claims 1-7 and 9 appear allowable over the prior art of record and have been renumbered as claims 1-8.

#### ***Priority***

The application is a 371 of International Application No. PCT/EP04/06604, filed on 06/17/2004, which claims the benefit of foreign priority under 35 U.S.C. 119, to UK Application No. 0314369.0, filed on 06/19/2003 and UK Application No. 0405774.1, filed on 03/15/2004.

#### ***Information Disclosure Statement***

Applicant's Information Disclosure Statement filed on 12/19/05 has been considered. Please refer to Applicant's copies of the 1449 submitted herewith.

#### ***Examiner's Amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

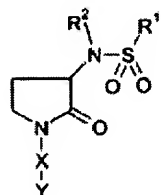
1. Replace the phrase “; or a pharmaceutically acceptable derivative thereof.” claims 1 and 7 with “.”.
2. Cancel **Claims 11 and 12.**

Authorization for this examiner's amendment was given in a telephone interview with Applicant's Representative Amy Fix on Feb. 13, 2007.

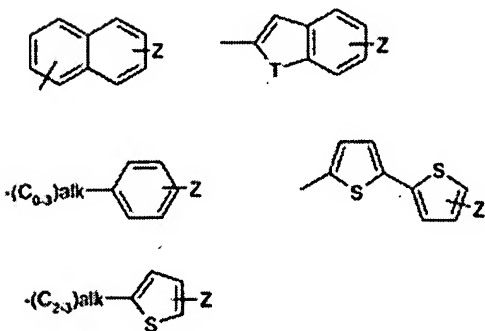
**Statement of Reasons for Allowance**

The following is an examiner's statement of reasons for allowance.

This invention relates to products of the formula (I)



(I) wherein  $R^1$  represents a group selected from



$R^2$  represents hydrogen,  $-C_{1-6}$ alkyl,  $-C_{1-3}$ alkylCONR<sup>a</sup>R<sup>b</sup>,  $-C_{1-3}$ alkyl(CO<sub>2</sub>C<sub>1-4</sub>alkyl,  $-CO_2$ C<sub>1-4</sub>alkyl or  $-C_{1-3}$ alkylCO<sub>2</sub>H;

, X represents phenyl or a 5- or 6-

membered aromatic heterocyclic group consisting of at least one heteroatom selected from O, N or S, Y represents a group  $-C(R^x)(R^z)C_{0-2}$ alkylINR<sup>c</sup>R<sup>d</sup> wherein

R<sup>a</sup> represents C<sub>1-4</sub>alkyl optionally substituted by halogen;

R<sup>b</sup> represents hydrogen or C<sub>1-4</sub>alkyl optionally substituted by halogen;

R<sup>c</sup> and R<sup>d</sup> independently represent hydrogen,  $-C_{1-6}$ alkyl,  $-C_{1-4}$ alkylOH, or together with the N atom to which they are bonded form a 4-, 5-, 6- or 7-membered non-aromatic heterocyclic ring, the 5-, 6- or 7-membered non-aromatic heterocyclic ring optionally containing consisting of an additional heteroatom selected from O, N or S, optionally substituted by C<sub>1-4</sub>alkyl;

and a pharmaceutical composition

comprising said compound with at least one pharmaceutical carrier or excipient. The

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novel and nonobvious aspect of this invention is found by in the definition of the Y group of the molecule. The closest prior art of record (WIPO Pub. No. WO 03/053925) discloses a similar compound that has R<sup>c</sup> and R<sup>d</sup> representing -C=O rather than -C<sub>1-4</sub>alkylOH of the instant invention (see p. 95, example 135) but fails to suggest applicants instantly claimed compound(s) and pharmaceutical composition.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Cheng whose telephone number is 571-272-6233. The examiner can normally be reached on M-F, 9AM to 5:30PM EST.

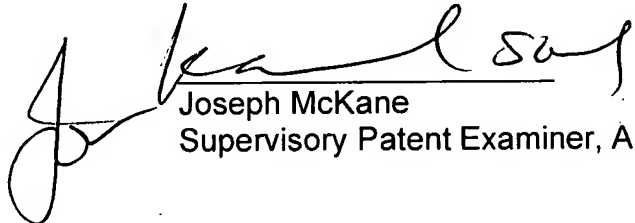
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571)272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Karen Cheng  
Patent Examiner, AU 1626  
February 14, 2007



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Joseph McKane  
Supervisory Patent Examiner, AU 1626